

# City of Seattle

Office of the Mayor

## CONSULTANT AGREEMENT

Title: Strategic Adviser to the Mayor

**AGREEMENT NUMBER: MO 2018 - 01**

This Agreement is made and entered into by and between the City of Seattle ("the City"), a Washington municipal corporation, through its Office of the Mayor as represented by the Mayor; and Insight Strategic Partners ("Consultant"), a limited liability company of the State of Washington and authorized to do business in the State of Washington.

### **Recitals:**

*WHEREAS, The purpose of this contract is to provide Mayor Durkan and the Mayor's Office with advice and evaluations on the City's current partnerships with philanthropic communities and other stakeholders on approaches to homelessness; and*

*WHEREAS, The Consultant was direct-selected through an informal selection process,*

*NOW, THEREFORE in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:*

### **1. SCOPE AND TERM OF AGREEMENT**

#### Term of Agreement

The term of this Agreement begins when fully executed by all parties and ends when work is completed and accepted by the City, unless amended by written agreement or terminated earlier under termination provisions.

The anticipated length for the Scope of Services and this Agreement is 4 months beginning in July of 2018.

#### Scope of Services

The Scope of Work of this Agreement and the time scheduled for completion of such Work are as follows:

- Serve as an adviser to the Mayor and the Mayor's senior team on evaluating the City's current partnerships with philanthropic communities and other stakeholders on approaches to homelessness.
- Coordinate outreach between the philanthropic community, other stakeholders and the City to review current practices and potential opportunities to enhance coordination on approaches to homelessness. Provide consultation by meeting with the City, philanthropic communities, businesses, community groups, and other private and public sector entities to assess the current approach.
- Distill information for the Mayor and City staff about how philanthropic, and business resources are currently being spent on youth, family and adult homelessness, and housing.
- Assist and coordinate with the development of site visits to learn about best practices that other municipalities have implemented in their approach to homelessness, particularly in the areas of oversight and accountability and innovative programs that are effective.

## 2. CHANGES

Either party may request changes to this Agreement. If the parties agree, such changes mutually agreed upon by and between the City and Consultant, shall be incorporated into the Amendment when signed by both parties.

## 3. PAYMENT

The Consultant will be reimbursed at a rate of \$6,000 a month. Total compensation under this Agreement shall not exceed \$24,000 unless modified by a written amendment to this Agreement. The parties agree that the monthly rate includes all direct, indirect, and fixed fees for the project.

## 4. PAYMENT PROCEDURES

The Consultant reimbursement is calculated at \$6,000 a month. Total compensation under this Agreement shall not exceed \$24,000 unless modified by a written amendment to this Agreement. The parties agree that the rate includes all direct, indirect, and fixed fees for the project. The anticipated length for the Scope of Services and this Agreement is 4 months beginning in July of 2018.

**Deliver all invoices and invoice/billing notices under this Agreement to:**

<b>If to the City:</b>	<b>If to the Consultant:</b>
Michael Fong, Senior Deputy Mayor Office of the Mayor 600 Fourth Ave. 7 <sup>th</sup> Floor Seattle, WA 98124	Thomas Bates Insight Strategic Partners 911 Pine Street, Suite 704 Seattle WA 98101

**See attached checklist for further instructions.**

**Invoices must clearly display the following** (sub-consultants' invoices must also include this information):

- Invoice Date and Invoice Number
- City Project Manager Name:  
(Please do not put PM's name in the address)
- Department Contract No.
- Contract Title: Strategic Adviser to the Mayor
- Period covered by the invoice
- Task # and title
- Employee's name and classification
- Employee's all-inclusive hourly rate and # of hours worked
- Total labor costs per task
- Itemization of direct, non-salary costs (per task, if so allocated)
- The following Sub-Consultant payment information will be provided (attach Sub- Consultant invoices as backup):
  - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
  - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).

Cumulative costs per task and for the total project

#### 4. PROMPT PAY

##### Definitions

- A. An invoice is considered received when it is date-stamped at point of entry into the department. If the invoice is not date-stamped or otherwise marked as received by a department, the date of the invoice will be considered the date the invoice is received.
- B. A payment is considered made on the day it is mailed or is available.
- C. Disputed items include, but are not restricted to, improperly prepared invoices, lack of appropriate supporting documentation, unapproved staff or staff rates on the invoice, and unsatisfactory work product or services.

##### Prompt Payment to Consultant

- A. Timely Payment: Except as provided otherwise herein, payment for an invoice will be issued and mailed to the Consultant within thirty (30) calendar days of receipt of the invoice.
- B. Disputed Items: The City may withhold payment for disputed items. The City will promptly notify the Consultant in writing, outlining the disputed items, the amount withheld and actions the Consultant must take to resolve the disputed items. The City default is to delay payment until a revised invoice is submitted and approved. However, the Consultant may request partial payment for the approved amounts, if the unapproved amount represents a small share of the total invoice. The City shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Legal Fees: In any action brought to collect interest due under this Section, the prevailing party is entitled to an award of reasonable attorney fees.

##### Prompt Payment to Subconsultants

- A. Cut-Off Date: Except as provided otherwise herein, payment for an invoice will be made to a subconsultant within thirty (30) calendar days of receipt by the Consultant. The Consultant may establish a monthly cut-off date of *(to be established by Prime)* that subconsultants must submit an invoice in order to assure 30-day payment.
- B. Disputed Items: The Consultant may withhold payment for disputed items. The Consultant will promptly notify the subconsultant in writing, outlining disputed items, the amount withheld and actions the subconsultant must take to resolve the disputed item(s). Such withheld amounts are limited only to items in dispute. The subconsultant can request partial payment for the approved amounts, or that the Consultant delay their entire payment until a revised invoice is submitted to and accepted by the Consultant. The Consultant shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Flow-Down Clauses: The Consultant shall require this provision in each subcontract of any tier.

#### 5. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Michael Fong, Senior Deputy Mayor Office of the Mayor 600 Fourth Ave. 7 <sup>th</sup> Floor Seattle, WA 98124	Thomas Bates Insight Strategic Partners 911 Pine Street, Suite 704 Seattle WA 98101

## **7. INDEMNIFICATION**

Consultant shall defend, indemnify, and hold the City harmless from and against all claims, demands, losses, damages or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

- the sole negligence or willful misconduct of Consultant, its officers, employees, agents or subconsultants;
- the concurrent negligence of Consultant, its officers, employees, agents or subconsultants but only to the extent of the negligence of Consultant, its officers, employees, agents or subconsultants;
- the negligent performance or non-performance of the contract by the Consultant; or
- the use of any design, process, or equipment that constitutes an infringement of any patent in effect, or violates any other intellectual proprietary interest, including copyright, trademark, and trade secret.

Consultant waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the City and its officials, agents or employees.

## **8. INSURANCE**

Insurance certification and additional insured endorsement policy must be submitted to the City. See attached "INSURANCE REQUIREMENTS AND TRANSMITTAL FORM."

## **9. AUDIT**

Upon request, the Consultant shall permit the City and any other governmental agency involved in the funding of the Work to copy, inspect and audit all pertinent books and records related to the Work, including connected or related Work performed by subconsultants, up to six years after final payment.

## **10. TAXES, FEES AND LICENSES**

Consultant shall obtain and pay all federal, state and local licenses required for the services rendered under this Agreement. Consultant shall pay all taxes arising out of or connected with the service described herein, and otherwise fulfill all statutory fiscal obligations required by law.

## **11. INDEPENDENT CONSULTANT**

The Consultant is an independent contractor and is not intended to act in any way as a City employee. The parties agree the City has neither direct nor immediate control over the Consultant or the right to control the manner or means by which the Consultant performs the work. Neither the Consultant nor any Consultant employee is deemed an employee of the City for any purpose. The Consultant is not authorized to act as an agent or legal representative of the City for any purpose. The Consultant is not granted express or implied right or authority to assume or create obligation or responsibility on behalf of or in the name of the City or to bind the City.

Use of City Office Space and Equipment: If the City determines it is in the City's best interests for the Consultant to Work on City premises and/or with City equipment, the City may provide such premises and equipment. Such premises and equipment are provided exclusively for the project and shall not be used for any other Consultant purpose. In such event, the Consultant remains independent and is not acting in the capacity of a City employee. The Consultant will not work on-site at City offices for more than 36 consecutive months without written authorization from the City Project Manager. The Consultant shall notify the City Project Manager if s/he or any other Workers are known to be within 90 days of a consecutive 36-month placement on City property. If the City determines the use of City premises or equipment is not necessary to complete the Work, the Consultant will be required to work from its own office space or in the field, as necessary. The City reserves the right to negotiate a reduction in Consultant fees or charge a rental fee, based on the actual costs to the City, for the use of City premises or equipment.

## **12. ASSIGNMENT**

Rights granted by this Agreement are personal in nature and may not be assigned or subcontracted without the written consent of the City.

## **13. TERMINATION**

The City may terminate the whole or part of this Agreement by written notice. This includes but is not limited to such reasons as Consultant failure to meet schedules specified herein, if timely completion is improbable, impossible, not feasible or illegal, or for City's convenience.

For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control.

Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than five (5) business days prior to the effective date of termination.

## **14. DEBARMENT**

The City may debar the Consultant pursuant to the provisions of SMC Ch. 20.70. Consultant confirms it is not debarred or excluded from participating in any Federal-aidcontract nor has any subconsultant used to perform this work. Debarment shall be verified at <https://www.sam.gov>. Consultant shall keep proof of such verification within the subconsultant records.

## **15. COMPLIANCE WITH LAWS**

Consultant shall comply with all applicable laws, ordinances, rules and regulations and orders of the Federal government, State of Washington, King County and The City of Seattle. Consultant shall also abide by all rules, regulations and directives of the same or of any administrative agency with jurisdiction over the subject matter of this Agreement.

## **16. SOCIAL EQUITY REQUIREMENTS**

Non-discrimination & Equal Employment Opportunity: Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated equally during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap. Such efforts include, but are not limited to employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.

Upon request, Consultant shall furnish a report to the City Purchasing and Contracting Services Director of affirmative efforts to implement this section, and will permit access to employment records, employment advertisements, application forms, other pertinent data and records as requested for investigation of compliance with this section.

The Consultant shall insert this Equal Employment Opportunity provision in all subcontracts executed under this Agreement.

Women and Minority Business: Consultant shall use all good faith efforts to promote and seek utilization of woman and minority businesses for any subcontracting within the contract scope of work. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington but must be registered in the City Online Business Directory.



Efforts may include use of solicitation lists, advertisements in minority community publications, breaking requirements into tasks or quantities that promote WMBE utilization, making schedule or requirement modifications likely to assist WMBE firms, targeted recruitment, using minority community and public organizations to perform outreach.

Any violation of this section, or a violation of SMC Ch. 14.04, SMC Ch. 14.10, SMC Ch. 20.42, SMC Ch. 20.45, or other local, state or federal non-discrimination laws is a material breach for which the Consultant may be subject to damages and sanctions provided by the Agreement and applicable law. Consultants in violation of the requirements may be subject to debarment from City contracting in accordance with SMC Ch. 20.70.

**Paid Sick Time and Safe Time Ordinance:** The Consultant shall be aware that the City has a Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside Seattle, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance. Please see <http://www.seattle.gov/laborstandards>, or you may call the Office of Labor Standards at 206-684-4500.

#### **17. CONSULTANT PERFORMANCE EVALUATION**

Consultant's performance will be evaluated at contract conclusion. The City's Consultant Performance Evaluation form is at <http://www.seattle.gov/contracting/docs/ccPE.doc>

#### **18. MISCELLANEOUS PROVISIONS**

- A. **Background Checks and Immigrant Status:** The City may require background checks for some or all of the employees that may perform work under this Agreement. The City has strict policies regarding the use of Background checks, criminal checks, immigrant status, and/or religious affiliation for contract workers. The policies are incorporated into the contract and available for viewing on-line at <https://www.seattle.gov/city-purchasing-and-contracting/social-equity/background-checks#backgroundchecks>.
- B. **Notification Requirements for Federal Immigration Enforcement Activities:** Prior to responding to any requests from an employee or agent of any federal immigration agency including the Immigration and Customs Enforcement (ICE), the U.S. Department of Homeland Security (DHS), Homeland Security Investigations (HSI) Enforcement Removal Operations (ERO); Customs and Border Protection (CPB), and U.S. Citizenship and Immigration Services (USCIS) regarding your City Contract, Consultant shall notify the Senior Deputy Mayor immediately.

Such requests include, but are not limited to:

- a. Requests for access to non-public areas in City buildings and venues (i.e., areas not open to the public such as staff work areas that require card key access and other areas designated as "private" or "employee only"); or
- b. Requests for data or information (writing or oral) about workers engaged in the work of this contract or City employees.


No access or information shall be provided without prior review and consent of the City. The Consultants shall request the ICE authority to wait until the Senior Deputy Mayor is able to verify the credentials and authority of the ICE agent and will direct the Consultant on how to proceed.

C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and to the extent that the applicable provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the provisions of the ADA prevail unless approval for an exception is obtained by a formal documented process. In instances where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the applicable code provisions.


D. Campaign Contributions (Initiative Measure No. 122): Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least \$250,000 in contracts with the City in the last two years or who has paid at least \$5,000 in the last 12 months to lobby the City. Please contact Polly Grow at [polly.grow@seattle.gov](mailto:polly.grow@seattle.gov) for more information about the measure, or call the Ethics Director with questions at 206-615-1248.

IN WITNESS WHEREOF, the parties have executed this Agreement by having legally binding representatives affix their signature below.

**CONSULTANT**

By  7/27/18  
Signature Date  
Martha C. Loesch  
Type or Print Name  
Partner  
Title

**THE CITY OF SEATTLE**

By  7-19-18  
Signature Date  
Michael Foley  
Type or Print Name  
Deputy Mayor  
Title

City of Seattle Business License Number: 803676

Washington State Unified Business Identifier Number (UBI): 604004361

**Attachments:**

- Invoice Package
- Consultant Questionnaire,  
<http://www.seattle.gov/Documents/Departments/FAS/PurchasingAndContracting/Consulting/fas-cpcs-consultant-questionnaire.docx> (must be returned with your signed Agreement)
- Insurance Transmittal Form (applicable when Standard or additional insurance is required)

